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**Datasheet for the decision
of 12 November 2019**

Case Number: T 1325/19 - 3.3.04

Application Number: 13717720.0

Publication Number: 2892549

IPC: A61K39/00, A61K39/12

Language of the proceedings: EN

Title of invention:

Methods and compositions for enhancing vaccine immune responses

Applicant:

Bavarian Nordic A/S

Headword:

Enhancing immune responses/BAVARIAN NORDIC

Relevant legal provisions:

EPC Art. 108

EPC R. 99(2), 101(1)

Keyword:

Admissibility of appeal - missing statement of grounds

Decisions cited:

T 1042/07

Catchword:



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Case Number: T 1325/19 - 3.3.04

D E C I S I O N
of Technical Board of Appeal 3.3.04
of 12 November 2019

Appellant: Bavarian Nordic A/S
(Applicant) Hejreskovvej 10A
3490 Kvistgaard (DK)

Representative: Bendiksen, Henrik
Bavarian Nordic GmbH
Patent Department
Fraunhoferstraße 13
82152 Martinsried (DE)

Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 23 November
2018 refusing European patent application No.
13717720.0 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair G. Alt
Members: D. Luis Alves
P. de Heij

Summary of Facts and Submissions

- I. The appeal is directed against the decision of the examining division, posted on 23 November 2018, to refuse European patent application No. 13 717 720.0.

- II. The appellant filed a notice of appeal on 21 January 2019 and paid the appeal fee on the same day. The notice of appeal contained a request for oral proceedings "*in the event that the Board of Appeal wishes to make a decision detrimental to the Appellants requests*".

- III. By communication of 13 May 2019, received by the appellant, the registry of the board informed the appellant that it appeared from the file that the written statement of grounds of appeal had not been filed, and that it was therefore to be expected that the appeal would be rejected as inadmissible pursuant to Article 108, third sentence, EPC in conjunction with Rule 101(1) EPC. The appellant was informed that any observations had to be filed within two months of notification of the communication. The communication also indicated that, unless a statement to the contrary was made by the appellant within the specified time period, the board assumed that the appellant's request for oral proceedings did not apply to the issue of inadmissibility of the appeal because no grounds of appeal had been filed in due time.

- IV. No reply was received within the time limit set.

Reasons for the Decision

1. No written statement setting out the grounds of appeal was filed within the time limit provided by

Article 108, third sentence, EPC in conjunction with Rule 126(2) EPC. In addition, neither the notice of appeal nor any other document filed contains anything that could be regarded as a statement of grounds pursuant to Article 108 EPC and Rule 99(2) EPC. Therefore, the appeal has to be rejected as inadmissible (Rule 101(1) EPC).

2. Notwithstanding the appellant's conditional request for oral proceedings made in the notice of appeal, the present decision can be taken without the appointment of oral proceedings. Since the appellant has not provided any statement regarding the substantive merits of the appeal and has neither given any explanation or comments as to why no statement of grounds had been filed, nor reacted to the board registry's notification of an impending rejection of the appeal as inadmissible, the board considers that the initial conditional request for oral proceedings has become obsolete. The lack of any response to the board's notification is considered to be equivalent to an abandonment of the request for oral proceedings (see for example decision T 1042/07 of 22 August 2008, point 3 of the reasons).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chair:



S. Lichtenvort

G. Alt

Decision electronically authenticated